

LFC Requester:	Travis Dulany
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**AGENCY BILL ANALYSIS
2016 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original ☒ **Amendment** ☐

Correction ☐ **Substitute** ☐

Date 1/12/2016

Bill No: SB-28

Sponsor: Sen. Ortiz y Pino and Garcia

Agency Code: 305

"Community Governance

Person Writing Susan Sullivan AAG

Short Attorney Act"

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE**BILL SUMMARY**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

Synopsis:

SB 28 enacts the "Community Governance Attorney Act". The Act creates the community governance attorney conditional tuition waiver program, for third year law students participants from UNM, administered by the Higher Education Department (HED). It further creates a community governance attorney commission to be housed at the University Of New Mexico and the conditional waiver fund.

The program would support provision of legal services to Acequias, Colonias, and Land Grants-Mercedes by providing a waiver, (loan) to cover certain expenses. The participant in the program would serve as a community governance attorney defined as," an attorney with a legal practice that is focused on the requirements and challenges faced by small political subdivisions and unincorporated communities, including promulgation of land and water use ordinances, contracting and collection or payment of taxes and fees".

The waiver (loan) is provided to cover tuition, fees and a reasonable living stipend that is forgiven in whole or in part upon completion of services as a community governance attorney. The waiver is forgiven at 50% for each year worked as a community governance attorney. Should a participant not fulfill the duties of a community governance attorney, the loan is not forgiven and must be repaid within ten (10) years.

The commission is composed of five (5) members; including a representative appointed by the secretary of HED, the dean of the law school, and three (3) members appointed by the Governor with ties to the political subdivisions. The Commission duties include making recommendations and advising the HED, soliciting proposals for disbursement of the funds, entering into contracts for expenditures of the fund, and promulgating rules to implement provisions of the Act.

The fund created by SB 28 consists of money appropriated, donated or otherwise accruing to the fund. All payments for waivers and penalties shall be credited to the fund. Balances do not revert.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

SB 28 is silent on some of the particular elements of eligibility, leaving them to regulation. It also does not provide for enforcement.

The New Mexico Constitution Article IX, Section 14, Subsection C does not include an exception to the anti-donation clause for students of law. SB 28 may be challenged on constitutional grounds, because while ultimately benefiting a public entity, it provides for money to individuals.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

Will require coordination between the HED, UNM in drafting rules to implement the legislation.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

There is existing NM law, the Public Service Law Loan Repayment Act. NMSA 1978, § 21-22F-11., governing loan forgiveness in the public sector. However, no program within existing law is directed toward the particular underserved groups targeted by SB 28.

TECHNICAL ISSUES

UNM is required to provide staff and meeting space for the Commission in Section 4(B) but no funding is allocated. The amount of resources needed is undetermined.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

Amend the Public Service Law Loan Program to include the underserved communities addressed by SB 28.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo. The underserved communities would remain underserved.

AMENDMENTS

The Bill could provide for an award of costs and attorney's fees should enforcement be needed.

A more detailed provision on eligibility could assist in selecting those law students with a genuine interest in a career path serving the communities benefiting from the program.